

Statement on Immigration Detainee Medical Care

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Good Afternoon. Thank you to Congresswoman Lofgren and members of the Subcommittee for inviting me to testify on immigration detainee medical care. My name is Dr. Allen Keller. I am testifying on behalf of the Bellevue/NYU School of Medicine Program for Survivors of Torture and Physicians for Human Rights. I am an Associate Professor of Medicine at New York University School of Medicine. I am Director of the Bellevue/NYU Program for Survivors of Torture and the NYU School of Medicine Center for Health and Human Rights. I am a member of the Advisory Board of Physicians for Human Rights. Previously I served on the American College of Physicians Ethics and Human Rights Committee. I am chair of the Policy Committee of the National Consortium of Torture Treatment Programs, whose approximately 30 member organizations include organizations in more than 20 states caring for torture victims from around the world, many of whom have been imprisoned in U.S. immigration detention facilities.

In June 2003, the Bellevue/NYU Program for Survivors of Torture and Physicians for Human Rights issued a report "From Persecution to Prison: The Health Consequences of Detention for Asylum Seekers."¹ In this study we interviewed 70 asylum seekers held in immigration detention. We documented both high levels of psychological distress, which worsened during the course of detention, and inadequate or non-existent mental health services. We also documented difficulties accessing medical and dental services for painful and sometimes dangerous health problems. Unfortunately, recent reports in major newspapers such as the *New York Times* and the *Washington Post* demonstrate that the problems we identified with regards to accessing health care in immigration detention have not been corrected. In fact, the concerns are even greater today, because current immigration policies continue to expand the use of immigration detention. While our study focused on asylum seekers in immigration detention, the findings clearly have relevance to all immigrant detainees.

The detained asylum seekers we interviewed were held in immigration detention facilities in the New York City area. This included private contract facilities, such as the Elizabeth Detention Center in Elizabeth, New Jersey, and several county jails in New York, New Jersey and Pennsylvania. At the time of our interviews, individuals had already been detained for

¹ Physicians for Human Rights and Bellevue/NYU Program for Survivors of Torture, *From Persecution to Prison: The Health Consequences of Detention for Asylum Seekers* (Boston and New York City, June 2003), available at <http://physiciansforhumanrights.org/library/report-persprison.html>.

substantial lengths of time. The median length of detention at the time of interview was five months (range 1 month to 4½ years).

As documented in our study, individuals who had fled to the United States under the most difficult circumstances after surviving torture and other forms of brutality abroad were detained under harsh prison conditions. Some were kept in county jail cells, which they sometimes shared with individuals charged with violent crimes. Others were kept in windowless warehouse-like prisons, such as the Elizabeth Detention Facility. Individuals were frequently subjected to segregation—a euphemistic term for solitary confinement—or threats of segregation as a means of punishment and intimidation.

It is important to remember that, like other immigration detainees, asylum seekers are civil detainees, not criminal detainees. Repeatedly we heard from individuals who described how they had come to the United States seeking safety and to build a new life. Never did they think they would be treated like criminals. One individual, who witnessed the murder of his father and fled political persecution in his home country, told us:

When I came (to the United States) I never expected to be put in jail. They don't call it jail, they call it detention. But it is jail. I thought I would be free when I got to America. I came here to find peace and be able to live in peace.

These harsh prison conditions were confirmed in a study on Expedited Removal conducted by the U.S. Commission on International Freedom, for which I served as an expert.²

In the Bellevue-NYU/PHR study, we found alarmingly high levels of psychological distress among immigrant detainees that worsened the longer they were in detention. 86% of the detainees interviewed had clinically significant symptoms of depression, 77% suffered from anxiety, and half suffered from posttraumatic stress disorder (PTSD).

Access to mental health services was woefully lacking. Furthermore, there were clear disincentives for individuals to report suicidal thoughts, because detainees believed—and correctly so—that they would likely be held in solitary confinement if they informed their jailers of these thoughts. This issue continues to be a significant concern.

At the time of our study, facilities we visited did not have onsite mental health staff. They relied on outside consultants, who came on a limited or “as needed” basis, making adequate ongoing care difficult if not impossible.

In addition to inadequate mental health services, more than half of the 62 individuals (56%) who reported having serious health problems reported having at least one serious condition for which they had substantial difficulty accessing medical services. Many detainees complained of difficulty obtaining specialized care, including treatment for chronic conditions. This raises important questions about what care is appropriate and what can reasonably be delayed. A

² United States Commission on International Religious Freedom, *Asylum Seekers in Expedited Removal* (Feb. 2005), available at http://www.uscirf.gov/countries/global/asylum_refugees/2005/february/index.html.

fundamental problem we saw—and one which appears to persist today—was that health care was provided with, at best, a short-term, stop-gap, “jail mentality.” That is, medical care seemed based on the assumption that patients would only be detained for a few days or weeks, while in fact many of the individuals we interviewed were detained for months or years.

As a result, detainees reported being told that medical conditions perceived as chronic or non-acute could be addressed only after their release from custody. Many also described being aware of bureaucratic difficulties related to obtaining care, including delays in getting approval for certain diagnostic procedures or treatment. Several individuals described being transferred from one facility to the next without their medical information following them. These problems appear to have continued unabated over the ensuing years.

Some examples of difficulties accessing health care that individuals described to us included:

- One detainee reported that while attending a peaceful demonstration in his country of origin, he suffered a gunshot wound to the groin. While in detention, his groin pain worsened. He reported being told that he would have to wait until he was released to have the bullet removed, but he remained in detention for 2½ years.
- A lump on the wrist was a source of pain and frustration for one detainee for several months. In his country, he previously had minor surgery to remove a lump on his wrist, which resulted from his hands had been tied with rope while being beaten. After fleeing his country, while in immigration detention, the growth recurred, even larger and more painful. He was told he would have to wait for release to receive surgery for the condition. After 5 months in detention he was granted asylum and released.
- Another detainee reported a painful testicular lump. An ultrasound was apparently performed, but he stated he was never told the result. He stated: “They only said if I ever get out I could treat it myself.”
- Before arriving in the U.S., one detainee had his leg amputated as a result of a severe beating he endured. He arrived in detention with a poorly fitting prosthesis. While in immigration detention for 7 months, he repeatedly complained of pain, but was not seen by a rehabilitative medicine specialist and was never provided a better fitting prosthesis.

Many individuals complained of significant difficulties in accessing needed dental care. For example, one detainee reported a painful wisdom tooth, for which he was given only pain medicine that provided little relief. After five months, the detainee reported that he finally saw a dentist who recommended extraction, but the dentist said there was a delay in having the tooth removed while they awaited approval for surgery from Washington.

The doctor gave me Naproxen (an analgesic). The doctor said “I’m sorry for the delay, because there are too many chiefs over me.” It was very painful and I put a request in every week for sick call.

The tooth was only removed after a second request sent to Washington was approved—this occurred approximately one year after he first complained about his tooth.

Similarly, several individuals with eye problems reported difficulty obtaining eye care including glasses. One woman repeatedly complained about needing glasses, but was told that they were “no longer provided.” Not getting glasses affected her mental health. She told us, “I like reading. It’s the only way I keep myself busy here.” She noted that reading without glasses gave her severe headaches. After more than two years in detention, she finally was provided with glasses. Reading was an essential outlet for this woman in trying to cope with the stress of detention.

One recent case which I have reviewed highlights a number of problems regarding poor health care in immigration detention, both medical and psychiatric, including delays in care, inadequate evaluation, treatment and follow up and a failure to use needed interpreters as part of the provision of care.³ The case involves a young woman (referred to as LC) from an African country who suffered repeated trauma and abuse in her country of origin including female genital mutilation, rape and the murder of several immediate family members because of her ethnicity. Fearing for her continued safety, LC fled to the United States, where upon arrival she was placed in immigration detention where she remained for nearly six months until very recently when she was granted political asylum.

Not surprisingly, upon arrival in the United States, LC was exhausted, and became panicked and terrified when she realized she was being imprisoned. Subsequently, she collapsed. At the detention center she was given Risperdal—an antipsychotic medication. This medication was not medically indicated, as confirmed by evaluations conducted by two outside physicians, including a psychiatrist. These evaluations were arranged by LC’s attorney who provided pro-bono legal representation. Furthermore, the woman suffered a number of serious side effects from this medication, including lethargy, confusion and lactation-production of breast milk. Despite these symptoms, the medication was continued for several months and even increased. Subsequently, LC refused to take the Risperdal and these symptoms improved dramatically.

LC did not speak English. According to LC’s attorney, interpreters were not used during the provision of medical evaluation and treatment throughout the course of LC’s detention. Nowhere in the medical records reviewed, is it noted that an interpreter was used, despite documentation that LC did not speak English.

Later during her detention, LC developed severe abdominal pain, and despite repeated requests, received inadequate medical evaluation and treatment over the course of several weeks. These requests came from the patient, her pro-bono attorney and the two outside physicians who had voluntarily evaluated LC. Only when her attorney was about to file a petition for habeas corpus for LC to receive immediate and adequate medical care was she brought to a hospital for evaluation and treatment. While her symptoms improved, LC was never informed of her medical condition or explained what treatment she received. Again, it appears that an interpreter was never utilized.

Clearly, the problems with health care in immigration detention, which have received recent attention, are not new. Many of the problems recently described—including difficulties and delays in receiving appropriate care—were ones we identified in our study four years ago.

³ LC (not her real initials) received pro-bono legal assistance (after referral by Human Rights First) by Ann Schofield, from the law firm McDermott Will & Emery. Ms. Schofield is willing to provide additional information concerning this case and can be contacted by telephone at (212) 547-5364 or via email at aschofield@mwe.com.

Health problems for immigrant detainees need to be adequately addressed. From a health perspective—including the pain and suffering and potential morbidity of the individual—as well as from a medical ethics perspective, it does not and should not matter whether a condition is “pre-existing” (*i.e.*, present before detention), or began during immigration detention. The individual is in government custody and with that comes the responsibility to provide appropriate and needed health services.

Congress should review the immigrant detention health system and provide critical oversight into the care provided. This includes a review of the policies that determine what kind of care is covered and what kind of care is not covered. It is also necessary to streamline the approval process for providing care. At present, health professionals in immigration detention facilities are unable to provide the care they believe is needed and appropriate.

Recommendations:

1. The Subcommittee on Immigration should conduct a full review of health care and related policies in immigration detention.

This review should include a) a comprehensive, independent investigation into the delivery and quality of health care in immigration detention including investigation of deaths which have occurred in immigration custody; b) an expert analysis of the adequacy of health care policies for immigration detainees, including the adequacy of the “package” of health care services available to detainees; and c) an expert analysis of the model, systems and procedures for delivery of health care to detainees.

2. The Subcommittee on Immigration should legislate to ensure that there is timely and adequate provision of health care, including medical and mental health services for detainees in immigration custody.

The U.S. government has a responsibility to ensure timely access and provision of high quality health services, including medical and mental health services. Timely access to specialized health services including dental care needs to be assured.

Standards for health care in immigration detention need to be reviewed, updated and promulgated.

3. Humane alternatives to detention must be utilized.

Whenever possible, immigrant detainees who are eligible for parole should be paroled. Policies concerning parole, including for medical reasons need to be clearly stated and implemented.